

Gerald A. Williams
Arizona Bar No. 018947
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85301

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-17-0016
PETITION TO AMEND)	
THE RULES OF PROCEDURE)	Response
FOR EVICTION ACTIONS)	

There is apparently a concern that a miscalculation of days is causing tenants to have less time to cure an allegation of nonpayment of rent. The Petitioner states that “a Justice of the Peace in Maricopa County ... stated that if the 5 day notice was served on day one, and no rent was paid by the fifth day, then the eviction complaint could be filed on day six.” The Petitioner also states that this proposed rule changed is needed due to this example. My actual quote was as follows:

Prior to filing an eviction action for nonpayment of rent, the landlord must give the tenant a five-day cure notice. This notice must: (1) state the amount of any unpaid rent and any other amount due; (2) notify the tenant of the landlord’s intent to terminate the lease if the amount due is not received within five days after the notice is given to the tenant, and (3) inform the tenant that if the amount due is not paid, that the tenant must then surrender possession of the residence. On day six, the landlord can file suit.

It appears that an assertive statement has been added into my comment that was never there. My comment did not concern counting days. It did not concern when day six would occur. Had I known that my eight word sentence could generate an eight page rule change petition, I would have added a footnote explaining how the days are calculated.

I have no objection to examining whether there is a better way to explain how days are counted; but an unintended interpretation of a single sentence should not be a basis to change a court rule.¹

RESPECTFULLY SUBMITTED, this 26th day of January 2017.

/s/ Gerald A. Williams
GERALD A. WILLIAMS
Justice of the Peace
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85374

Copy Mailed To:

Lisa M. Panahi
Acting General Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, AZ 85016-7236

¹ Apparently landlords are not rushing to file eviction complaints immediately after the time for a five-day notice has run. Although it is only a snapshot, of the 46 eviction cases that were set to be heard in the North Valley Justice Court on January 25, 2017, the average calendar day time, from the day after the five-day notice expired until the day an eviction complaint was filed, was 13.7 days. (Seven of the cases were filed on the 13th day, 17 were filed on the 14th day, and 8 were filed on the 15th day.) In all but one of those cases, the landlord was represented by an attorney.